SINGLE BENCH

(4)

CF-1002

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. NO. 696 /2007

PETITIONER : Vijay Khalkho S/o Late Shri Oliver Khalkho, aged about 43 years, R/o- R.T.S. Colony , Bilaspur , Post and Distt. Bilaspur (Chhatttisgarh).

P.R. No. 817/07
Presented by Arun Kochar
dated 29/11/07

VERSUS

RESPONDENTS :

1. State of Chhattisgarh Through Secretary Deptt. of Urban Administration and Development D.K.S. Bhawan, Raipur (C.G.)
2. Commissioner of Urban Administration and Development Office Raipur (C.G.)
3. Deputy Director of Urban Administrative and Development Office Bilaspur (C.G.)
4. Collector Bilaspur (C.G.)

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29/11/07
for A. G. BILASPUR

OATH COMMISSIONER
R. Kaushik
BILASPUR TAHSIL AREA

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

(61)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 696 of 2007

Petitioner: Vijay Khalkho

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Smt. Renu Kocher, Advocate for the petitioner.

Shri Sushil Dubey, Govt. Advocate for the Respondents.

Shri Sanjay K. Agarwal, Advocate for the Caveator.

ORDER

(Passed on this 13th day of February, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner, who was working as ad hoc Executive Engineer in the Divisional Office, Urban Administration and Development (Technical Cell), Bilaspur was transferred to the Municipal Corporation Ambikapur, District- Surguja on deputation vide order dated 10.1.2007 (Annexure P/1). On the same date by another order (Annexure P/6) one Shri Nityanand Uppadhyaya, Assistant Engineer was directed to look after the additional charge of the post of Executive Engineer, which was fallen vacant on account of the transfer of the petitioner.
2. Learned counsel appearing for the petitioner submits that this transfer of the petitioner from Bilaspur to Ambikapur on deputation amounts to malafide exercise of powers, as both the orders were passed on the same date. It is beyond comprehension as to how it amounts to malafide. It is but natural that once the post of Executive Engineer is fallen vacant, some other junior officer has to look after the routine work, performed by the Executive Engineer. Thus, the malafide, as alleged, is without any basis, thus, the contention of the petitioner deserves to be rejected.
3. With regard to other contention that the order as per the circular dated 24.1.2007 can be passed by the officer of equal rank i.e. Executive Engineer, it is for the State to appoint as early as possible a competent officer in the public interest to look after the

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work of the Executive Engineer, which has fallen vacant on account of the transfer of the petitioner.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.
5. In the opinion of this Court, there is no merit in this petition. The petitioner has no right to posting at a particular place. It appears that the order has been passed in public interest due to administrative exigency. Thus the petition deserves to be and is dismissed, accordingly.
6. The respondents/State may consider the representation of the petitioner, if any, keeping in view the study of children of the petitioner and their ensuring examinations.
7. A copy of this order be sent to the Secretary, Urban Administration and Development Department, Government of Chhattisgarh, Raipur to see that some competent officer is appointed on the post of Executive Engineer, which has fallen vacant due to transfer of the petitioner, in the public interest.
8. In view of the foregoing, the petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur